

108TH CONGRESS
2D SESSION

S. 2382

To establish grant programs for the development of telecommunications capacities in Indian country.

IN THE SENATE OF THE UNITED STATES

MAY 4, 2004

Mr. INOUE introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

A BILL

To establish grant programs for the development of telecommunications capacities in Indian country.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Native American
5 Connectivity Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1)(A) disparities exist in the areas of edu-
9 cation, health care, workforce training, commerce,

1 and economic activity of Indians due to the rural na-
2 ture of most Indian reservations; and

3 (B) access to basic and advanced telecommuni-
4 cations infrastructure is critical in eliminating those
5 disparities;

6 (2) currently, only 67.9 percent of Indian
7 homes have telephone service, compared with the na-
8 tional average of 95.1 percent;

9 (3) the telephone service penetration rate on
10 some reservations is as low as 39 percent;

11 (4) even on reservations and trust land, non-In-
12 dian homes are more likely to have telephone service
13 than Indian homes;

14 (5) only 10 percent of Indian households on
15 tribal land have Internet access;

16 (6) only 17 percent of Indian tribes have devel-
17 oped comprehensive technology plans;

18 (7) training and technical assistance have been
19 identified as the most significant needs for the devel-
20 opment and effective use of telecommunications and
21 information technology in Indian country;

22 (8) funding for telecommunications and infor-
23 mation technology projects in Indian country re-
24 mains inadequate to address the needs of Indian
25 communities;

1 (9) many Indian tribes are located on or adja-
2 cent to Indian land in which unemployment rates ex-
3 ceed 50 percent;

4 (10) the lack of telecommunications infrastruc-
5 ture and low telephone and Internet penetration
6 rates adversely affects the ability of Indian tribes to
7 pursue economic development opportunities; and

8 (11) health care, disease prevention education,
9 and cultural preservation are greatly enhanced with
10 access to and use of telecommunications technology
11 and electronic information.

12 **SEC. 3. PURPOSES.**

13 The purposes of this Act are—

14 (1) to promote affordable and universal access
15 among Indian tribal governments, tribal entities, and
16 Indian households to telecommunications and infor-
17 mation technology in Indian country;

18 (2) to encourage and promote tribal economic
19 development, self-sufficiency, and strong tribal gov-
20 ernments;

21 (3) to enhance the health of Indian tribal mem-
22 bers through the availability and use of telemedicine
23 and telehealth; and

24 (4) to assist in the retention and preservation
25 of native languages and cultural traditions.

1 **SEC. 4. DEFINITIONS.**

2 In this Act:

3 (1) BLOCK GRANT.—The term “block grant”
4 means a grant provided under section 5.

5 (2) ELIGIBLE ACTIVITY.—The term “eligible
6 activity” means an activity carried out—

7 (A) to acquire or lease real property (in-
8 cluding licensed spectrum, water rights, dark
9 fiber, exchanges, and other related interests) to
10 provide telecommunications services, facilities,
11 and improvements;

12 (B) to acquire, construct, reconstruct, or
13 install telecommunications facilities, sites, or
14 improvements (including design features), or
15 utilities;

16 (C) to retain any real property acquired
17 under this Act for tribal communications pur-
18 poses;

19 (D) to pay the non-Federal share required
20 by a Federal grant program undertaken as part
21 of activities funded under this Act;

22 (E) to carry out activities necessary—

23 (i) to develop a comprehensive tele-
24 communications development plan; and

25 (ii) to develop a policy, planning, and
26 management capacity so that an eligible

1 entity may more rationally and effec-
2 tively—

3 (I) determine the needs of the
4 entity;

5 (II) set long term and short term
6 goals;

7 (III) devise programs and activi-
8 ties to meet the goals of the entity, in-
9 cluding, if appropriate, telehealth;

10 (IV) evaluate the progress of the
11 programs and activities in meeting the
12 goals; and

13 (V) carry out management, co-
14 ordination, and monitoring of activi-
15 ties necessary for effective planning
16 implementation;

17 (F) to pay reasonable administrative costs
18 and carrying charges relating to the planning
19 and execution of telecommunications develop-
20 ment activities, including the provision of infor-
21 mation and resources about the planning and
22 execution of the activities to residents of areas
23 in which telecommunications development ac-
24 tivities are to be concentrated;

1 (G) to increase the capacity of an eligible
2 entity to carry out telecommunications activi-
3 ties;

4 (H) to provide assistance to institutions of
5 higher education that have a demonstrated ca-
6 pacity to carry out eligible activities;

7 (I) to enable an eligible entity to facilitate
8 telecommunications development by—

9 (i) providing technical assistance, ad-
10 vice, and business support services (includ-
11 ing services for developing business plans,
12 securing funding, and conducting mar-
13 keting); and

14 (ii) providing general support (includ-
15 ing peer support programs and mentoring
16 programs) to Indian tribes in developing
17 telecommunications projects;

18 (J) to evaluate eligible activities to ascer-
19 tain and promote effective telecommunications
20 and information technology deployment prac-
21 tices and usages among Indian tribes; or

22 (K) to provide research, analysis, data col-
23 lection, data organization, and dissemination of
24 information relevant to telecommunications and
25 information technology in Indian country for

1 the purpose of promoting effective telecommuni-
2 cations and information technology deployment
3 practices and usages among tribes.

4 (3) ELIGIBLE ENTITY.—The term “eligible enti-
5 ty” means—

6 (A) an Indian tribe;

7 (B) an Indian organization;

8 (C) a tribal college or university;

9 (D) an intertribal organization; or

10 (E) a private or public institution of higher
11 education acting jointly with an Indian tribe.

12 (4) INDIAN TRIBE.—The term “Indian tribe”
13 has the meaning given the term in section 4 of the
14 Indian Self-Determination and Education Assistance
15 Act (25 U.S.C. 450b).

16 (5) SECRETARY.—The term “Secretary” means
17 the Secretary of Commerce.

18 (6) TECHNICAL ASSISTANCE.—The term “tech-
19 nical assistance” means the facilitation of skills and
20 knowledge in planning, developing, assessing, and
21 administering eligible activities.

22 (7) TRAINING AND TECHNICAL ASSISTANCE
23 GRANT.—The term “training and technical assist-
24 ance grant” means a grant provided under section
25 6.

1 (8) TRIBAL COLLEGE OR UNIVERSITY.—The
 2 term “tribal college or university” has the meaning
 3 given the term “tribally controlled college or univer-
 4 sity” in section 2 of the Tribally Controlled Commu-
 5 nity College Assistance Act of 1978 (25 U.S.C.
 6 1801), except that the term also includes an institu-
 7 tion listed in the Equity in Educational Land-Grant
 8 Status Act of 1994 (7 U.S.C. 301 note).

9 (9) TELEHEALTH.—The term “telehealth”
 10 means the use of electronic information and tele-
 11 communications technologies to support long-dis-
 12 tance clinical health care, patient and professional
 13 health-related education, public health, and health
 14 administration.

15 **SEC. 5. BLOCK GRANT PROGRAM.**

16 (a) ESTABLISHMENT.—There is established within
 17 the National Telecommunications and Information Ad-
 18 ministration a Native American telecommunications block
 19 grant program to provide grants on a competitive basis
 20 to eligible entities to carry out eligible activities under sub-
 21 section (c).

22 (b) BLOCK GRANTS.—The Secretary may provide a
 23 block grant to an eligible entity that submits a block grant
 24 application to the Secretary for approval.

1 (c) ELIGIBLE ACTIVITIES.—A grant under this sec-
2 tion may only be used for an eligible activity.

3 (d) REGULATIONS.—Not later than 180 days after
4 the date of enactment of this Act, the Secretary shall pro-
5 mulgate regulations establishing specific criteria for the
6 competition conducted to select eligible entities to receive
7 grants under this section for each fiscal year.

8 **SEC. 6. TRAINING AND TECHNICAL ASSISTANCE GRANTS.**

9 (a) NOTIFICATION AND CRITERIA.—The Secretary—
10 (1) shall provide notice of the availability of
11 training and technical assistance grants; and
12 (2) publish criteria for selecting recipients.

13 (b) GRANTS.—The Secretary may provide training
14 and technical assistance grants to eligible entities with a
15 demonstrated capacity to carry out eligible activities.

16 (c) USE OF FUNDS.—A training and technical assist-
17 ance grant shall be used—

18 (1) to develop a training program for tele-
19 communications employees; or

20 (2) to provide assistance to students who—
21 (A) participate in telecommunications or
22 information technology work study programs;
23 and

24 (B) are enrolled in a full-time graduate or
25 undergraduate program in telecommunications-

1 related education, development, planning, or
2 management.

3 (d) SETASIDE.—

4 (1) IN GENERAL.—For each fiscal year, the
5 Secretary shall set aside \$2,000,000 of the amount
6 made available under section 12 for training and
7 technical assistance grants, to remain available until
8 expended.

9 (2) TREATMENT.—A training and technical as-
10 sistance grant to an entity shall be in addition to
11 any block grant provided to the entity.

12 (e) PROVISION OF TECHNICAL ASSISTANCE BY THE
13 SECRETARY.—The Secretary may provide technical assist-
14 ance, directly or through contracts, to—

15 (1) tribal governments; and

16 (2) persons or entities that assist tribal govern-
17 ments.

18 **SEC. 7. COMPLIANCE.**

19 (a) AUDIT BY THE COMPTROLLER GENERAL.—

20 (1) IN GENERAL.—The Comptroller General of
21 the United States may audit any financial trans-
22 action involving grant funds that is carried out by
23 a block grant recipient or training and technical as-
24 sistance grant recipient.

1 (2) SCOPE OF AUTHORITY.—In conducting an
2 audit under paragraph (1), the Comptroller General
3 shall have access to all books, accounts, records, re-
4 ports, files, and other papers, things, or property be-
5 longing to or in use by the grant recipient that re-
6 late to the financial transaction and are necessary to
7 facilitate the audit.

8 (3) REGULATIONS.—The Comptroller General
9 shall promulgate regulations to carry out this sub-
10 section.

11 (b) ENVIRONMENTAL PROTECTION.—

12 (1) IN GENERAL.—After consultation with In-
13 dian tribes, the Secretary may promulgate regula-
14 tions to carry out this subsection that—

15 (A) ensure that the policies of the National
16 Environmental Policy Act of 1969 (42 U.S.C.
17 4321 et seq.), and other laws that further the
18 purposes of that Act (as specified by the regula-
19 tions), are most effectively implemented in con-
20 nection with the expenditure of funds under
21 this Act; and

22 (B) assure the public of undiminished pro-
23 tection of the environment.

24 (2) SUBSTITUTE MEASURES.—Subject to para-
25 graph (3), the Secretary may provide for the release

1 of funds under this Act for eligible activities to grant
2 recipients that assume all of the responsibilities for
3 environmental review, decisionmaking, and related
4 action under the National Environmental Policy Act
5 of 1969 (42 U.S.C. 4321 et seq.), and other laws
6 that further the purposes of that Act (as specified
7 by the regulations promulgated under paragraph
8 (1)), that would apply to the Secretary if the Sec-
9 retary carried out the eligible activities as Federal
10 projects.

11 (3) RELEASE.—

12 (A) IN GENERAL.—The Secretary shall ap-
13 prove the release of funds under paragraph (2)
14 only if, at least 15 days prior to approval, the
15 grant recipient submits to the Secretary a re-
16 quest for release accompanied by a certification
17 that meets the requirements of paragraph (4).

18 (B) APPROVAL.—The approval by the Sec-
19 retary of a certification shall be deemed to sat-
20 isfy the responsibilities of the Secretary under
21 the National Environmental Policy Act of 1969
22 (42 U.S.C. 4321 et seq.) and the laws specified
23 by the regulations promulgated under para-
24 graph (1), to the extent that those responsibil-

ities relate to the release of funds for projects described in the certification.

(4) CERTIFICATION.—A certification shall—

(A) be in a form acceptable to the Secretary;

(B) be executed by the tribal government;

(C) specify that the grant recipient has fully assumed the responsibilities described in paragraph (2); and

(D) specify that the tribal officer—

(i) assumes the status of a responsible Federal official under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and each law specified by the regulations promulgated under paragraph (1), to the extent that the provisions of that Act or law apply; and

(ii) is authorized to consent, and consents, on behalf of the grant recipient and on behalf of the tribal officer to accept the jurisdiction of the Federal courts for enforcement of the responsibilities of the tribal officer as a responsible Federal official.

1 **SEC. 8. REMEDIES FOR NONCOMPLIANCE.**

2 (a) FAILURE TO COMPLY.—If the Secretary finds, on
3 the record after opportunity for an agency hearing, that
4 a block grant recipient or training and technical assistance
5 grant recipient has failed to comply substantially with any
6 provision of this Act, the Secretary, until satisfied that
7 there is no longer a failure to comply, shall—

8 (1) terminate payments to the grant recipient;

9 (2) reduce payments to the grant recipient by
10 an amount equal to the amount of payments that
11 were not expended in accordance with this Act;

12 (3) limit the availability of payments under this
13 Act to programs, projects, or activities not affected
14 by the failure to comply; or

15 (4) refer the matter to the Attorney General
16 with a recommendation that the Attorney General
17 bring an appropriate civil action.

18 (b) ACTION BY THE ATTORNEY GENERAL.—After a
19 referral by the Secretary under subsection (a)(4), the At-
20 torney General may bring a civil action in United States
21 district court for appropriate relief (including mandatory
22 relief, injunctive relief, and recovery of the amount of the
23 assistance provided under this Act that was not expended
24 in accordance with this Act).

1 **SEC. 9. REPORTING REQUIREMENTS.**

2 (a) ANNUAL REPORT TO CONGRESS.—Not later than
3 180 days after the end of each fiscal year in which assist-
4 ance under this Act is provided, the Secretary shall submit
5 to Congress a report that includes—

6 (1) a description of the progress made in ac-
7 complishing the objectives of this Act;

8 (2) a summary of the use of funds under this
9 Act during the preceding fiscal year; and

10 (3) an evaluation of the status of telephone,
11 Internet, and personal computer penetration rates,
12 by type of technology, among Indian households
13 throughout Indian country on a tribe-by-tribe basis.

14 (b) REPORTS TO SECRETARY.—The Secretary may
15 require grant recipients under this Act to submit reports
16 and other information necessary for the Secretary to pre-
17 pare the report under subsection (a).

18 **SEC. 10. CONSULTATION.**

19 In carrying out this Act, the Secretary shall consult
20 with other Federal agencies administering Federal grant
21 programs.

22 **SEC. 11. HISTORIC PRESERVATION REQUIREMENTS.**

23 A telecommunications project funded under this Act
24 shall comply with the National Historic Preservation Act
25 (16 U.S.C. 470 et seq.).

1 **SEC. 12. AUTHORIZATION OF APPROPRIATIONS.**

2 (a) IN GENERAL.—There are authorized to be appro-
3 priated to carry out this Act—

4 (1) \$20,000,000 for fiscal year 2005; and

5 (2) such sums as are necessary for each subse-
6 quent fiscal year.

7 (b) AVAILABILITY.—Funds made available under
8 subsection (a) shall remain available until expended.

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